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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/372,560	08/11/1999	OLAF VANCURA	1482/198(A)	1559

7590 06/24/2002

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EXAMINER

PIERCE, WILLIAM M

ART UNIT PAPER NUMBER

3711

DATE MAILED: 06/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/372,560

Applicant(s)

VANCURA, OLAF

Examiner

William M Pierce

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-30,42-47,49-55,57,58 and 130-132 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-30,42-47,49-55,57,58 and 130-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

Claims 1, 2, 4-30, 42-47, 49-55, 57 and 58 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker as set forth in the previous office action and below in response to applicant's remarks.

Claims 1, 2, 4, 9-30, 42-47, 49-55, 57 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by 2,262,642 as set forth in the previous office action and below in response to applicant's remarks.

Claims 1, 2, 4-7, 12, 13, 18, 42-46, 50, 55, 57 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Keller and, in the alternative 2,197,974 as set forth in the previous office action and below in response to applicant's remarks.

Claims 8-11, 14-17, 19-30, 47, 49, 51-54, 56, 58 rejected under 35 U.S.C. 103(a) as being unpatentable over Keller and/or 2,197,974 in view of Thompson as set forth in the previous office action

Claims 130-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, 2,262,642, Keller and 2,197,974 as set forth in the claim above further in view of matters well known to mathematics and gaming.

The above applied references fail to discuss the house percentages claimed. The house percentage in chance game such as slots relates to mathematics well known to one skilled in the art of gaming. When a "basic game" is combined with a "secondary game", the mathematics of each game are considered synergistic. It would be routine for one skilled in the art to either determine the house percentage or design the game to a specific house percentage or range. As such to have designed the house percentages as called for in claims 130-132 is considered an obvious matter of design choice in order to set the profit desired by the house.

Response to Arguments

Applicant's arguments filed 5/3/02 have been fully considered but they are not persuasive.

Examiner notes applicant's efforts to advance the prosecution of the case by reducing the number of claims and filing a terminal disclaimer. However, the examiner remains in disagreement with applicant with respect to two main issues as set forth in the following response to arguments.

Up to page 4 of the remarks, applicant sets forth a first main issue where he considers the second knowledge based game having rewards that are separate and independent from the primary game of chance as being novel. Applicant addresses this as critical since "the player has the incentive for playing because...payoff will

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not be jeopardized by playing the knowledge-based game" (top of pg. 4). Further criticality asserted is that player motivated to play the knowledge based game would first have to play the game of chance.

A second main issue is applicant's remarks pertaining to a "positive house advantage".

Applicant's remarks subsequently made with respect to Walker, '642 and Keller are noted.

The examiner has considered applicant's remarks with respect to what is known to the art as a whole. First it is noticed that in the gaming industry "secondary event slot machines" (term coined in col. 3, ln. 1 of 6,231,442) having a bonusing game with a "basic game" is well known. The background section of PG PUB 2002/0039918 further sets forth this trend in gaming. Multipliers in secondary games are known (For example in patents to Adams such as 5,848,392). Further known is where the winnings based on the outcome of the secondary game is accumulated by adding or subtracting or awarded along with to the winnings of the basic game. (See Vancura 6,033,307 for example.)

With respect the first issue of the secondary game being separate, the examiner finds that to be inherent in these class secondary event slot machines. It is considered well established that using a bonus game, where the secondary game is a knowledge based game, is known. Such is set forth in the application of Walker to claims 1-30 and 42-58 under 102 (and applicant supplied reference to "Slots of Trivia" from 1996). Having the winnings of the secondary game awarded in addition to the winnings of the base game is considered a relationship and design that is known. Where it happens in the established art that the winnings from the bonus game are included with the winnings of the base game when a player is paid and/or where the winnings of the base game are multiplied, such is considered to meet the limitations in the claims of "so that the entitled payoffs are made for the underlying game regardless of the outcome (or the secondary game)" (taken from applicant's claim 1. In short the art as a whole shows that the winnings from a secondary game can be awarded with the winnings from the base game, modify the winnings from the base game, multiply the winning of the base game and/or not affect the winnings of the base game at all. As such applicant's claimed relationship of the secondary game to the base game as being separate is something that is considered old.

The second main issue pertains to house percentages. The house percentage in chance game such as slots relates to mathematics well known to one skilled in the art of gaming. When a "basic game" is combined with a "secondary game", the mathematics of each game are considered synergistic. It would be routine for one skilled in the art to either determine the house percentage or design the game to a specific house percentage or range.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication and its merits should be directed to William Pierce at E-mail address bill.pierce@USPTO.gov or at telephone number (703) 308-3551.


Any inquiry not concerning the merits of the case such as **missing papers, copies, status or information** should be directed to Tech Center 3700 Customer Service Center at (703) 306-5648 where the fax number is (703) 308-7957 and the email is Customerservice3700@uspto.gov.

For **official fax** communications to be officially entered in the application the fax number is (703) 305-3579.

For **informal fax** communications the fax number is (703) 308-7769.

Any inquiry of a general nature or relating to the **status** of this application or proceeding can also be directed to the receptionist whose telephone number is (703) 308-1148.

Any inquiry concerning the **drawings** should be directed to the Drafting Division whose telephone number is (703) 305-8335.


WILLIAM M. PIERCE
PRIMARY EXAMINER